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May 11, 2006

Mr. Douglas Tomchuk
Remedial Project Manager
U.S. Environmental Protection Agency
290 Broadway, 19th Floor
New York, NY 10007-1866

RE: Response to USEPA's Notice With Respect To Berry's Creek Study Area,
Bergen County, New Jersey

Dear Mr. Tomchuk:

I represent Henkel Corporation ("Henkel") and Cognis Corporation ("Cognis"), as successor in interest to Henkel. Henkel is among the entities that have received a request from the United States to make a good faith proposal to enter into negotiations to perform a study of the Berry's Creek Study Area (the "Site" or "Study Area"). This letter is written on behalf of Henkel in response to that request. Henkel intends this letter to constitute a good faith proposal demonstrating Henkel's willingness and qualifications to negotiate with USEPA and other PRPs to conduct and/or finance a study at the Site.

The United States takes the position that impacts to the Study Area derive from numerous and multiple sources. Although Henkel disputes the contention that it plays a role in the degradation of Berry's Creek and believes that the United States is inappropriately targeting it, Henkel nonetheless is prepared in good faith to enter into negotiations with USEPA and other PRPs to conduct and/or finance a study at the Site.



The willingness of Henkel to conduct a study at the Site is based on, but not necessarily limited to, the following conditions:

- i) negotiation of a Consent Decree/Administrative Order on Consent and Statement of Work with terms acceptable to Henkel and other PRPs as well as to USEPA;
- ii) agreement to execute a negotiated Consent Decree/Administrative Order on Consent and Statement of Work by a sufficient number of entities;
- iii) receipt by Henkel of an appropriate credit (or carve out) through the use of mixed funding or other negotiated mechanism should potentially responsible parties with nexus to sites in the Berry's Creek Study Area that may have contributed to the environmental condition of the Study Area refuse to or be financially unable to participate in the study;
- iv) agreement on a methodology to identify other potentially responsible parties;
- v) agreement on a methodology to discourage potentially responsible parties that have been identified or may be identified in the future from refusing to participate in the proposed study; and
- vi) completion of negotiations among recipients of USEPA's notice letter for a mechanism to perform the work under a Consent Decree/Administrative Order on Consent and Statement of Work, to include specifically, the formation of a PRP Group to perform the work under a Consent Decree/Administrative Order on Consent and Statement of Work.

Henkel has previously demonstrated the requisite technical capability to carry out the proposed work at the Site as reflected in the successful design and implementation of work at other CERCLA Sites. In connection with any agreement ultimately reached to perform work at the Site, Henkel would join with other notice letter recipients, as a member of the PRP Group to be formed, to select a contractor or contractors qualified to perform the work. Henkel, through its representative, has already engaged in a number of conference calls and meetings in order to develop a mechanism to undertake a study of the Site.

Henkel, together with other notice letter recipients, collectively are of sufficient financial worth to finance the work required for a study of the Site. Many of the other notice letter recipients are Fortune 500 companies. Moreover,

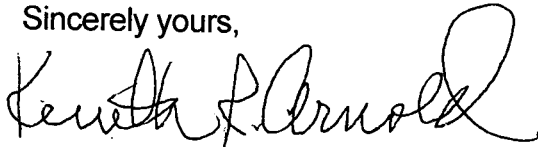
the other notice letter recipients have demonstrated the requisite capability to finance the work at numerous other sites.

Henkel recognizes that certain oversight and response costs may be recoverable by USEPA under CERCLA. Subject to and without waiving any defenses or other rights Henkel may have as to the recoverability of certain costs, or Henkel's entitlement to a reduction, if not elimination, of past costs and/or oversights costs by application of USEPA's Orphan Share Policy or other means, Henkel together with the other noticed parties responding to USEPA's notice letter, as a member of the PRP Group to be formed, will negotiate with USEPA regarding such costs.

By providing this good faith proposal, Henkel is not, and shall not be construed as, admitting in any way that it is liable or responsible for costs or damages of any sort incurred by USEPA or others relating to the Site. This Good Faith Offer is thus made without prejudice and without admission of any fact, liability, fault or responsibility for the environmental conditions associated with the Study Area. Henkel, expressly reserves all rights and defenses at law or equity that may apply.

If you have questions regarding this proposal or would like to discuss it at any time, please contact me at your convenience.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kenneth R. Arnold". The signature is fluid and cursive, with the first name "Kenneth" and last name "Arnold" clearly distinguishable.

Kenneth R. Arnold

cc: Clay Monroe, Esquire
Assistant Regional Counsel
Office of Regional Counsel
New Jersey Superfund Branch
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, NY 10007-1866

Kevin M. Chu, Esq.



HENKEL CORPORATION
ORGANIC PRODUCTS DIVISION

300 Brookside Avenue, Ambler, PA 19002
(215) 628-1000
Telex: 6851092AMCHM UW

August 25, 1987

Certified Mail
Return Receipt Requested

Ms. Barbara Strollo
State of New Jersey
Department of Environmental Protection
Bureau of ECRA Applicability and Compliance
401 East State Street
CN 028
Trenton, NJ 08625

Re: Administrative Consent Order
ECRA Case Nos. 87217, 87218, 87219
Your Letter of August 20, 1987

Dear Ms. Strollo:

We are in receipt of letters from your office stating that the ECRA-1 filings for the above-referenced cases are incomplete. We believe this determination to be incorrect. The ECRA case numbers, as referenced above, were part of a "pass-through" sale from Diamond Shamrock to Occidental to Henkel Corporation. The initial Diamond/Oxy sale is referenced under ECRA Case Nos. 86334, 86335, and 86337. The case managers for the respective ECRA filings are Ron DiCola, Lisa Hurban, and David Reed. Both the initial ECRA-1 and Site Evaluation Submissions for Case Nos. 86334, 86335, and 86337 have been submitted and judged complete by the NJ DEP. Work is proceeding on these cases and conditional approval of the SES has been received for ECRA Case No. 86337. We expect NJ DEP comments on the remaining two cases shortly.

The subsequent Oxy/Henkel ECRA-1 filings for Case Nos. 87217, 87218, and 87219 were received by the NJ DEP on March 9, 1987. We received copies of the "ECRA Initial Notice — Completeness Checklist" for each of the facilities in question. In each case, the submission was judged complete on 3/17/87 by Terry Kummer of your department. A question did arise over the \$1,600 fee paid at the time of submission. As explained by the case manager for Case No. 86334, Ron DiCola, the fee may be incomplete as additional charges may be necessary due to underground tanks. None of the facilities have underground tanks, which was confirmed by the site inspection by the case managers. Based on this fact, no further fee is required and the ECRA-1 submissions are complete.

The final item requiring clarification involves the submission of SES (Sampling Plans) reports for Case Nos. 87217, 87218, and 87219. This point is specifically provided for in the Administrative Consent Order, in the Matter of Oxy-Diamond Holding Corporation/Oxy Process Chemicals, Inc., ECRA Case Nos. 87217, 87218, and 87219 effective 3/27/87. Under Section 13.A of the ACO, the Guarantor(s) (Oxy Process Chemicals, Inc. and Oxy/Diamond Holding Corp.) were required to submit the Initial

Ms. Strollo
August 25, 1987
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Notice excluding a Sampling Plan required by NJAC 7:1-3.7 within 30 days of the effective date of the ACO. Since the Initial Notice had been submitted to the NJ DEP on 3/9/87, this requirement has been satisfied. Sections 13.B and 13.C require the Guarantor(s) to submit a Sampling Plan(s) only if written notification from the NJ DEP is received, indicating that Diamond has failed to comply with the Diamond ACO referenced by ECRA Case Nos. 86334, 86335, and 86337. No such notification has been received and, in fact, these ECRA cases are proceeding smoothly. The provisions of Sections 13.B and 13.C allow for a single SES for each site since the facilities involved in the "pass-through" sale remain unchanged. The SES submissions under ECRA Case Nos. 86334, 86335, and 86337 fully delineate the investigation of any environmental contamination on site or off site. It is recognized that the NJ DEP may require additional sampling at any facility during the various stages of implementation, or as a result of a site inspection. Such changes will be incorporated into the Initial SES.

For these reasons we believe that a second SES for ECRA Case Nos. 87217, 87218, and 87219 is not required if the ECRA program requirements for Case Nos. 86334, 86335, and 86337 are complied with. We have discussed this procedure with the ECRA case manager for Case No. 86334, Ron DiCola. We are in agreement that the use of a "pass-through" sale and ACO is not specifically covered in ECRA regulation and our interpretation of the ACO will accomplish a complete investigation and remediation of the facility.

It is Henkel's intention to proceed with the ECRA program requirements for all of the facilities referenced. We have developed a good working relationship with the case managers and desire to maintain such. Should you have any questions or wish to hold a meeting on this matter, please feel free to contact me at (215) 628-1417.

Sincerely,



Gary J. Shelby, P.E.
Environmental Engineer

GJS:mg

cc: Leonid Carnett, NJ DEP
Ron DiCola, NJ DEP
Lisa Hurban, NJ DEP
David Reed, NJ DEP



HENKEL CORPORATION
ORGANIC PRODUCTS DIVISION

300 Brookside Avenue, Ambler, PA 19002

November 10, 1987

Mr. Jonathan Berg
Department of Environmental Protection
Bureau of Environmental Evaluation and
Cleanup Responsibility Assessment
401 East State Street
CN 028
Trenton, NJ 08625

Dear Mr. Berg:

Re: Diamond Shamrock, ECRA Case #86334, Carlstadt, New Jersey

To confirm our telephone conversation of today, Henkel Corporation wishes to extend the submittal date of the amended sampling plan to January 20, 1988. As you are aware, the Carlstadt facility is quite complex and a large number of issues must be addressed. The additional time will allow us to fully integrate your comments of October 20, 1987.

Sincerely,

Gary J. Shelby, P.E.
Environmental Engineer

GJS:mg

OK JDB
11/23/87

RECEIVED
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BUREAU OF ENVIRONMENTAL SITE
EVALUATION